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Washington, D.C. 20463

2014 DEC 16 AM 11:31

**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

MUR: 6834

DATE COMPLAINT FILED: June 02, 2014

DATE OF NOTIFICATION: June 09, 2014

DATE OF LAST RESPONSE: August 04, 2014

DATE ACTIVATED: October 14, 2014

ELECTION CYCLE: 2014

EXPIRATION OF SOL:

April 14, 2018 (earliest)

July 13, 2019 (latest)

COMPLAINANT:

C. Jason Perkey, Executive Director, Kansas  
Democratic Party

RESPONDENTS:

Lynn Jenkins

Lynn Jenkins for Congress and Heather Grote in her  
official capacity as treasurer

William Roe

RELEVANT STATUTES  
AND REGULATIONS:

52 U.S.C. § 30101(8)(A)<sup>1</sup>

52 U.S.C. § 30101(8)(B)(i)

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a)(1)(A)

52 U.S.C. § 30116(f)

11 C.F.R. § 100.52

11 C.F.R. § 100.54

11 C.F.R. § 100.74

11 C.F.R. § 104.3(a)

INTERNAL REPORTS CHECKED: FEC Disclosure Reports

FEDERAL AGENCIES CHECKED: None

<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended ("the Act"), was transferred from Title 2 to new Title 52 of the United States Code.

I. INTRODUCTION

Complainant alleges that Lynn Jenkins, and Lynn Jenkins for Congress and Heather Grote in her official capacity as treasurer (the "Committee"), violated the Act and Commission regulations by failing to report in-kind contributions in the form of services William Roe provided the Committee as "spokesperson and/or campaign manager."<sup>2</sup> In support, Complainant points to the 2013 Quarterly Statement of Disbursements for the House of Representatives, which indicates that Roe served as District Director of Representative Jenkins's official legislative staff; Roe's LinkedIn profile, which reflects that he also served as campaign manager for Jenkins from February 2012 to the "present;" and multiple news articles listing Roe as the Committee's "spokesman" or "campaign manager."<sup>3</sup>

In a joint response to the Complaint, Respondents argue that the services at issue, *i.e.*, those Roe provided the Committee from 2013 through the date of the Response, were not contributions, but rather volunteer services that did not need to be reported.<sup>4</sup> Specifically, Respondents assert that during the time period at issue, Roe worked full-time for, and received a full-time salary from, Jenkins's congressional office.<sup>5</sup> Respondents maintain that during "this period when the campaign [was] less active and needs [were] intermittent, Roe conducted any campaign-related activity in his personal time, above-and-beyond his official full-time work hours."<sup>6</sup>

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<sup>2</sup> Compl. at 3 (June 2, 2014).

<sup>3</sup> *Id.* at 2-3.

<sup>4</sup> Resp. at 1-2 (Aug. 4, 2014).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.*

Moreover, Respondents assert that Roe, who since 2010 has worked for Jenkins as District Representative and District Director in her congressional office, and as Campaign Manager during campaign seasons, would reduce his time and salary in the congressional office and receive pay from the Committee when the campaign accelerated.<sup>7</sup> Finally, the Response states that Roe had simply failed to update his LinkedIn profile that listed his position as Jenkins's campaign manager, and the articles attached to the Complaint do not refer to Roe as "campaign manager."<sup>8</sup>

Because there is no information indicating that Roe received payment for the services at issue, and thus no basis to conclude that a contribution subject to reporting requirements resulted, we recommend that the Commission find no reason to believe Respondents violated the Act and close the file.

## II. ANALYSIS

During the 2013-2014 election cycle, a person could not contribute more than an aggregate of \$2,600 to any candidate and his or her authorized political committees per election.<sup>9</sup> No candidate or political committee may knowingly accept any contribution in excess of the contribution limits.<sup>10</sup>

A "contribution" includes anything of value made by any person for the purpose of influencing any election for federal office or the payment by any person of compensation for

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 2-3. Articles attached to the Complaint refer to Roe only as "campaign spokesman," Compl., Exs. F-1, and his LinkedIn profile was changed to reflect that he has been the "District Director for Congresswoman Lynn Jenkins Kansas 2nd District Offices" from March 2010 – "present," and worked for Lynn Jenkins for Congress as Campaign Manager from February 2012 – December 2012, and as Political Director from March 2010 – March 2012. A copy of Roe's LinkedIn profile, visited on December 2, 2014, is available in the voting ballot matters folder.

<sup>9</sup> 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)).

<sup>10</sup> 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).

1 the personal services of another person which is rendered to a political committee without  
2 charge for any purpose.<sup>11</sup> Authorized committees, such as the Jenkins Committee, must  
3 report all contributions in their disclosure reports.<sup>12</sup> Under the Act and the Commission's  
4 regulations, however, the term "contribution" does not include "the value of services provided  
5 without compensation by any individual who volunteers on behalf of a candidate or political  
6 committee."<sup>13</sup>

7 Here, there is no information in the Complaint indicating that Roe's activities were not  
8 volunteer services to the Committee. Moreover, the following publicly available information  
9 from the 2012 and 2014 election cycles is consistent with the Committee's assertion that  
10 when the campaign accelerated, Roe reduced his time and salary in the congressional office  
11 and received pay from the Committee:<sup>14</sup>

Service Dates	Congressional Pay	Campaign Pay
First Quarter 2012	\$11,875	\$0
Second Quarter 2012	\$11,875	\$0
Third Quarter 2012 – 07/1/12-08/02/12	\$ 2,111	\$4,464
Third Quarter 2012 – 08/03/12-09/30/12	\$ 1,531 for Part-Time Employee	\$8,322
Fourth Quarter 2012 – 10/01/12-11/20/12	\$ 1,319 for Part-Time Employee	\$9,353
Fourth Quarter 2012 – 11/21/12-12/31/12	\$ 9,278	\$2,620
First Quarter 2013	\$14,791	\$0
Second Quarter 2013	\$16,250	\$0
Third Quarter 2013	\$16,250	\$0
Fourth Quarter 2013	\$17,500	\$0
First Quarter 2014	\$16,458	\$0
Second Quarter 2014	\$16,875	\$0
Third Quarter 2014	\$12,188	\$4,932

<sup>11</sup> 52 U.S.C. § 30101(8)(A) (formerly 2 U.S.C. § 431(8)(A)); 11 C.F.R. § 100.52, 100.54.

<sup>12</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

<sup>13</sup> 52 U.S.C. § 30101(8)(B)(i) (formerly 2 U.S.C. § 431(8)(B)(i)); *see also* 11 C.F.R. § 100.74.

<sup>14</sup> The Congressional pay figures are taken from 2012-2014 Quarterly Statements of Disbursements for the House of Representatives, and the campaign pay figures from disclosure reports the Committee filed with the Commission during the same time period. Relevant pages are available in the voting ballot matters folder.

1 Because there is no information indicating that Roe received payment for the  
2 volunteer services he provided to the Committee from 2013 through the date of the Response,  
3 it appears that the services at issue did not constitute a contribution. Thus, we recommend  
4 that the Commission find no reason to believe that Lynn Jenkins violated 52 U.S.C.  
5 § 30116(f) (formerly 2 U.S.C. § 441a(f)); that Lynn Jenkins for Congress and Heather Grote  
6 in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b) or 30116(f) (formerly  
7 2 U.S.C. §§ 434(b) and 441a(f)); or that William Roe violated 52 U.S.C. § 30116(a)(1)(A)  
8 (formerly 2 U.S.C. § 441a(a)(1)(A)).<sup>15</sup>

9 **III. RECOMMENDATIONS**

- 10 1. Find no reason to believe that Lynn Jenkins violated 52 U.S.C. § 30116(f)  
11 (formerly 2 U.S.C. § 441a(f));  
12  
13 2. Find no reason to believe that Lynn Jenkins for Congress and Heather Grote in her  
14 official capacity as treasurer violated 52 U.S.C. §§ 30104(b) or 30116(f)  
15 (formerly 2 U.S.C. §§ 434(b) and 441a(f));  
16  
17 3. Find no reason to believe William Roe violated 52 U.S.C. § 30116(a)(1)(A)  
18 (formerly 2 U.S.C. § 441a(a)(1)(A));  
19  
20 4. Approve the attached Factual and Legal Analysis;  
21  
22 5. Approve the appropriate letters; and  
23

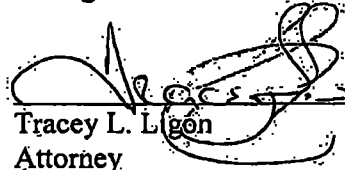
<sup>15</sup> If Roe's employer paid him for the volunteer services he provided to the Jenkins campaign, the employer would potentially be liable for making an excessive contribution. However, because here Roe's employer is a congressional office, and thus the federal government, no contribution would result, as the Act excludes the federal government from the definition of "person." See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)) ("[N]o person shall make contributions" that exceed applicable limitations).

6. Close the file.

12.15.14  
Date

  
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